

# CITY OF OAKLAND



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VICE MAYOR LARRY REID  
DISTRICT 7

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**Date:** October 20, 2020  
**To:** Members of the City Council  
**From:** Vice Mayor Larry Reid, District 7

**Re: ORDINANCE APPROVING A 90-DAY SUSPENSION OF ENFORCEMENT OF OAKLAND SIDEWALK REPAIR ORDINANCE NO. 13549 C.M.S. AND REQUEST FOR TWO (2) REPORTS**

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## **RECOMMENDATION**

I respectfully request the City Council: Adopt an Ordinance Approving A 90-Day Suspension of Enforcement of Oakland Sidewalk Repair Ordinance No. 13549 C.M.S and Request for Two (2) Reports.

## **EXECUTIVE SUMMARY**

In May of 2019, the Department of Transportation (the Department) presented the Sidewalk Repair Ordinance which required sidewalk inspection and repair upon title transfer for real property and was assigned responsibility for its administration. While this ordinance has merit, the implementation process by the Department has caused uncertainty among home buyers, sellers, and their real estate agents. There have been continued reports of instances where the Department has been unresponsive on real property transactions. Some transactions are moving forward without certification because of the Department's inability to keep up with certificate requests, leaving the potential for liability and transaction delays. This ordinance will suspend enforcement of the Sidewalk Repair Ordinance for 90-days and request two reports be brought back to Council on (1) the status of the citywide tree database and (2) how to improve the implementation of the ordinance to better meet the needs of Oakland residents.

## **BACKGROUND / LEGISLATIVE HISTORY**

In May of 2019, the Department presented the Sidewalk Repair Ordinance which required sidewalk inspection and repair upon title transfer for real property and was assigned responsibility for its administration.

In February of 2020, the Public Works Committee heard testimony that the implementation of the Sidewalk Repair Ordinance had caused hardship in many cases. At the committee meeting, a majority consensus of Councilmembers determined that the Department could benefit from a suspension of

enforcement of the Sidewalk Repair Ordinance to allow the Department additional time to work with stakeholders to improve and streamline the implementation process of this ordinance.

### **ANALYSIS**

Since the February Public Works Committee hearing, there have been an onslaught of calls from realtors, sellers, and buyers complaining that the Department has been consistently unresponsive and was providing inconsistent information regarding sidewalk repair certifications. This lack of response has caused significant transaction problems. Primarily because since this Sidewalk Repair Ordinance is currently being implemented, it raises concerns with title companies and poses liability issues for buyers and sellers involved in the transaction. Real property transactions are legal contracts worth a significant amount of money, some into the millions of dollars, which require both the buyer and seller to follow all legal requirements set out by localities in which the transaction is taking place.

Continued delays in the Department's response time has caused some transactions to move forward without certification. The Department's inability to keep up with the request demand creates a potential for liability. This ordinance would approve a 90-day suspension of enforcement of the Sidewalk Repair Ordinance and request an informational report to the City Council that outlines procedural modifications the department can adopt, in partnership with stakeholders, to improve the implementation of the Sidewalk Repair Ordinance.

Additionally, homeowners and real estate professionals have reported delays in receiving information from the City on the location of official trees. It is important to determine whether a City owned tree is responsible for sidewalk damage and could mean the difference between paying a small amount or thousands of dollars in repair work. This ordinance would request that the City administration provide an informational report on the status of the citywide tree database and include a timeline of when the database will be fully operational.

The Department has had eight months since the February Public Works Committee hearing to work in partnership with stakeholders to resolve these ongoing concerns regarding the implementation of the Sidewalk Repair Ordinance, yet the issues continue to persist. Since housing transactions usually slowdown in the winter the timing of this ordinance would reduce any negative impact and provide the necessary time to streamline the certification process.

### **FISCAL IMPACT**

There is no fiscal impact associated with this ordinance.

### **PUBLIC OUTREACH**

Vice Mayor Reid and his office engaged with the Bridge Association of Realtors and home buyers and sellers who have negatively been impacted by the implementation by the Sidewalk Repair Ordinance.

### **COORDINATION**

Vice Mayor Reid worked extensively with the Department of Transportation and the Mayor's Office and created a city/community working group in hopes to come to a resolution and find solutions to improve the implementation of the Sidewalk Repair Ordinance. Unfortunately, the Vice Mayor's efforts were

not able to find a path forward to ease the burden that this ordinance has placed on real property sellers and buyers.

**SUSTAINABLE OPPORTUNITIES**

*Economic:* The ordinance is intended to promote a seamless real property transaction and remove uncertainty which would help with the collection of real estate transfer tax revenue for the City of Oakland.

*Environmental:* There are no environmental opportunities associated with this ordinance.

*Social Equity:* By remedying department implementation delays, this ordinance will ensure that the sidewalks are safe for users by having repairs completed in a timely manner.

**ACTION REQUESTED BY THE CITY COUNCIL**

I respectfully request the City Council: Adopt an Ordinance Approving A 90-Day Suspension of Enforcement of Oakland Sidewalk Repair Ordinance No. 13549 C.M.S and Request for Two (2) Reports

Sincerely,



Vice Mayor Larry Reid  
District 7